

# Nadler Exposes Dramatic EPA Double-Standards and Mishandling of Hazardous Materials Testing and Removal in Downtown Manhattan Residences

Wednesday, 16 January 2002

NEW YORK — Calling into question the integrity of the Environmental Protection Agency's (EPA) actions in lower Manhattan since the World Trade Center attacks, Rep. Nadler exposed a gross disparity in how the EPA has responded to the aftermath of the 9/11 attacks compared with other instances of hazardous materials contamination around the country. Congressman Nadler made the announcement at a City Hall press conference and was joined by members of the Ground Zero Elected Officials Task Force, and Hugh Kaufman, Chief Investigator for the EPA National Ombudsman.

Rep. Nadler charged that the EPA has abrogated its responsibility to protect public health by proclaiming lower Manhattan "safe" without comprehensive data to support that statement. And the Congressman revealed that the EPA had its own office building at 290 Broadway extensively tested and properly cleaned, in stark contrast to EPA directives which told Manhattan residents to follow NYC Department of Health (NYCDOH) guidelines that advise cleaning with "wet rags." The Congressman stated that these guidelines may be in violation of the federal law that EPA is responsible for overseeing. As a result of these findings, the Congressman made a number of immediate demands of the EPA and called for the continued, unfettered and independent investigation by the EPA National Ombudsman and for Congressional Hearings.

EPA Region II officials have claimed in multiple public statements that they have no responsibility for indoor testing and cleaning of residences in lower Manhattan. In a November 20th New York Daily News article, Region II Counsel Walter Mugdan said, "They [the federal regulations] were never contemplated to apply to someone cleaning an apartment." Another spokesperson for Region II, said in a recent St. Louis Post-Dispatch article, "That's not our job and we have no policies or procedures for doing that type of testing." She also stated, "We are not a health agency." However, today Congressman Nadler said that he had spoken with EPA officials who dispute the accuracy of those statements. The EPA National Ombudsman, Robert Martin, confirmed that the agency is, in fact, currently doing indoor testing and removal of hazardous materials in Herculaneum, Missouri, and has also done so in McFarland, California, and Kellog, Idaho.

"The EPA has failed to uphold its own mission — to protect human health and to safeguard the natural environment — air, water and land — upon which life depends. It is absurd that the EPA has claimed publicly that it doesn't have the legal authority to do necessary environmental tests and remediation in response to the World Trade Center attacks when it has clearly done residential work throughout the country," said Congressman Nadler. "Why is New York being treated differently?"

"And given that the EPA has not tested inside people's homes, despite my repeated requests for it to do so, I find it deeply troubling that Administrator Whitman said she was 'glad to reassure the people of New York... that their air is safe to breathe, and their water is safe to drink.' She clearly did not have comprehensive data to support that claim either way," he added.

Congressman Nadler also revealed today that the Federal buildings at 290 Broadway and 26 Federal Plaza were tested inside and outside for high levels of hazardous materials and, when some were found, the areas were cleaned (HEPA vacuumed) by properly trained personnel. Some sources have also indicated that even greater cleanup measures were taken.

However, even when the EPA received test results from a study commissioned by the Task Force that indicated serious levels of asbestos and other materials inside downtown apartments, the EPA continued to guide residents to the NYC Department of Health (NYCDOH) for direction. The NYCDOH directed residents who are the same distance away from Ground Zero as the Federal buildings, to clean asbestos-laden dust "with wet rags and mops" or

&ldquo;wet brooms.&rdquo;

"We must ask why is what the EPA says is good enough for New York residents not good enough for the EPA itself? Either the cleanup measures taken at the EPA office were necessary to protect its workers or the EPA wasted tax-payer dollars on an unnecessary cleanup,&rdquo; stated Congressman Nadler.

Moreover, the Congressman argued, that by delegating authority to the more lenient City standard, the EPA may have violated the law, as the agency is compelled to ensure that such City standards are at least as stringent as Federal law.

&ldquo;Today, I have leveled some serious charges at the EPA because I believe I have the moral responsibility to do so. However, I want to make perfectly clear that we still do not know the extent of the presence of hazardous materials in some areas downtown. It may or may not be dangerous in some indoor areas of lower Manhattan. I believe that given that we don&rsquo;t have all of the facts, we cannot conclude anything. I do know that we must get the proper facts and act swiftly and appropriately to get the job done right,&rdquo; said Rep. Nadler.

## CALLS FOR ACTION

Rep. Nadler and the Ground Zero Elected Officials Task Force called for four actions by the EPA:

- 1) Expedited testing of lower Manhattan residences and workspaces for hazardous materials levels. If shown to be necessary by test results, the proper cleaning of such indoor spaces by the EPA or appropriate government agency or its designated contractors. Such a testing and cleanup effort must be coordinated by a single agency utilizing the strictest Federal guidelines.
- 2) The full, independent and unfettered investigation by the EPA National Ombudsman into EPA&rsquo;s response to the September 11th attacks in New York.
- 3) The release of all documents detailing the justification of the cleanup of 290 Broadway and 26 Federal Plaza, how that cleanup was conducted, by whom, and at whose expense;
- 4) An immediate explanation from EPA of why it didn&rsquo;t utilize or enforce strict, Federal guidelines regarding hazardous testing and cleanup downtown, in favor of more lenient City standards.

In addition, Congressman Nadler called for immediate Congressional hearings into all of these matters.

Rep. Nadler has served in Congress since 1992. He represents the 8th Congressional District of New York, which includes parts of Manhattan and Brooklyn, including the area surrounding 'Ground Zero.' He is the Chair of the Ground Zero Elected Officials Task Force.

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PREPARED STATEMENT OF REP. NADLER AT PRESS CONFERENCE ON HAZARDOUS MATERIALS CLEANUP -  
1/17/02

Thank you all for being here. I am joined today by members of the Ground Zero Elected Officials Task Force and by Hugh Kaufman, Chief Investigator for the EPA National Ombudsman. I want to also thank the New York Environmental Law and Justice Project for their assistance in bringing some of these matters to my attention.

Today, we are calling into question the integrity of the Environmental Protection Agency's (EPA) testing and cleanup of hazardous materials in downtown Manhattan. There is a gross disparity in how the EPA has responded to the 9/11 attacks as against other instances of hazardous materials contamination around the country. I fear that the EPA has abrogated its responsibility to protect public health by proclaiming lower Manhattan "safe" without comprehensive data to support that conclusion. The EPA has conducted NO tests of residential homes in New York City, even though it has done so in other cases around the country. The EPA must eliminate this disparity now. The EPA must test residential homes immediately, and if necessary, clean all contaminated areas using properly trained personnel under the strictest federal guidelines.

In addition, I call upon the EPA National Ombudsman to expand his investigation into the Agency's handling of the post 9/11 attacks here in New York. This investigation must be performed independently, thoroughly and expeditiously without any obstruction. I urge Administrator Whitman not to continue her quest to dissolve the office of the Ombudsman and, in so doing, further call into question the integrity of the Agency.

On September 18th, Administrator Whitman said she was "glad to reassure the people of New York. . .that their air is safe to breathe, and their water is safe to drink." I sincerely hope she was right. However, given that the EPA has not tested inside people's homes, despite my repeated requests for it to do so, how could the EPA have comprehensive data to support this claim either way? More importantly, when the EPA was presented with test results showing elevated levels of hazardous materials in downtown apartments, it chose to do nothing.

EPA Region II officials have claimed in multiple public statements that they have no responsibility for indoor testing and cleaning of residences in lower Manhattan. In a November 20th New York Daily News article, Region II Counsel Walter Mugdan said, "They [the federal regulations] were never contemplated to apply to someone cleaning an apartment." Another spokesperson for Region II said in a recent St. Louis Post-Dispatch article "That's not our job and we have no policies or procedures for doing that type of testing." She also stated, "We are not a health agency."

However, I have spoken with EPA officials who dispute the accuracy of those statements. The EPA National Ombudsman, Robert Martin, confirmed for me that the agency is, in fact, currently doing indoor testing and removal of hazardous materials in Herculaneum, Missouri, and has also done so in McFarland, California, and Kellog, Idaho.

The EPA has claimed publicly that it does not have the legal authority to do necessary environmental tests and remediation in response to the World Trade Center attacks. This is absurd. How can they make this claim when they have clearly done residential work throughout the Country? Why is New York being treated differently?

I also find it repugnant that an official at the EPA would deny a public health responsibility when its own mission statement says that the EPA's goal is to "protect human health and to safeguard the natural environment — air, water and land — upon which life depends."

I have also learned that the Federal buildings at 290 Broadway, which houses the EPA, and 26 Federal Plaza, were tested inside and outside for high levels of hazardous materials and, when some were found, the areas were cleaned (Hepa vacuumed) by properly-trained personnel. Some sources have also indicated that even greater clean-up measures were taken.

However, even when the EPA received test results from a study commissioned by the Task Force that indicated serious levels of asbestos and other hazardous materials inside downtown apartments, the EPA, instead of directing systematic testing and remediation where contamination was found, instead directed residents to the NYC Department of Health (NYCDOH), which instructed them to clean asbestos-laden dust "with wet rags and mops" or "wet brooms" — procedures guaranteed not to remove or prevent asbestos contamination.

We must ask why is what the EPA says is good enough for New York residents not good enough for the EPA itself? Either the cleanup measures used at the EPA office were necessary to protect its workers or, the EPA wasted tax-payer dollars on an unnecessary cleanup. And if such cleanup measures were necessary at the EPA offices, why are such cleanup protocols not necessary at many, or all, of downtown's residences and offices?

Today, I have leveled some serious charges at the EPA because I believe I have the moral responsibility to do so. However, I want to make perfectly clear that we still do not know the extent of the presence of hazardous materials in some areas downtown. It may or may not be dangerous in some indoor areas of lower Manhattan — we just don't know. I believe that given that we don't have all of the facts, we cannot conclude anything. I do know that that we must get the proper facts and act swiftly and appropriately to get the job done right.

Therefore, I demand that the following actions be taken by the EPA:

First, the EPA must begin expedited testing of lower Manhattan residences and workspaces for hazardous materials levels. If shown to be necessary by the test results, the proper cleaning of such indoor spaces must be undertaken by the EPA, or by another appropriate government agency or its designated contractors. Such a testing and cleanup effort must be coordinated by a single agency utilizing the strictest Federal guidelines.

Second, I am calling for a full, independent and unfettered investigation by the EPA National Ombudsman into the EPA's response to the September 11th attacks in New York.

Third, I am formally requesting the release of all documents detailing the justification for the cleanup of 290 Broadway and 26 Federal Plaza, how it was conducted, by whom, and at whose expense, and an immediate explanation from EPA regarding why it didn't utilize or enforce the Federal guidelines regarding hazardous testing and cleanup downtown, and permitted the use instead of more lenient City standards.

Finally, I call upon my colleagues in Congress to begin immediate hearings into these matters.

We must act now so that we don't have to pay a terrible price later. Our health and safety is at stake. Clear and proper guidelines must be in place so that if such an event were to, G-d forbid, happen in the future, we don't find

ourselves in this same situation.

## BACKGROUND MATERIALS

Email to request a electronic copy of the report on air quality, commissioned by the Ground Zero Elected Officials Task Force (requires Adobe Acrobat Reader)

Read NYC Department of Health Release advising residents to clean asbestos-laden dust with "wet rags."

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